

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO

UNITED STATES OF AMERICA,

Plaintiff,

v.

ANDREW DAVISON,

Defendant.

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CASE NO. 16-CR-92

OPINION & ORDER  
[Resolving Docs. [15](#), [16](#) ]

JAMES S. GWIN, UNITED STATES DISTRICT JUDGE:

On March 23, 2016, the United States indicted Defendant Andrew Davison for being a felon in possession of a firearm, for possession with intent to distribute cocaine, and for possession with intent to distribute marijuana.<sup>1</sup> On June 29, 2016, this Court heard argument in Defendant’s motion to suppress and his motion for a *Franks* hearing.<sup>2</sup> This Court ruled from the bench, denying both motions.<sup>3</sup> On July 5, 2016, Defendant Davison appealed the denial of the motion to suppress and the motion for a *Franks* hearing to the Sixth Circuit.<sup>4</sup>

Generally, a district court stays a case pending a proper interlocutory appeal to the appellate court. However, “[i]t is well-settled that a criminal defendant cannot take an immediate appeal from an order denying a pretrial motion to suppress evidence.”<sup>5</sup> Rather, such an order can be appealed only after the entry of final judgment in the action—generally the entry of a sentence in a criminal case.<sup>6</sup>

<sup>1</sup> Doc. [1](#). The Government has now dismissed Counts 2 and 3 without prejudice. Doc. [48](#).

<sup>2</sup> Doc. [32](#); Doc. [34](#).

<sup>3</sup> Doc. [44](#).

<sup>4</sup> Doc. [46](#).

<sup>5</sup> *United States v. Shameizadeh*, 41 F.3d 266, 267 (6th Cir. 1994) (citing *Di Bella v. United States*, 369 U.S. 121, 131 (1962)).

<sup>6</sup> *Id.*; *Berman v. United States*, 302 U.S. 211, 212 (1937).

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Davison's appeal to the Sixth Circuit is improper. The appeal will not stay the scheduled trial.

IT IS SO ORDERED.

Dated: July 7, 2016

s/ *James S. Gwin*  
JAMES S. GWIN  
UNITED STATES DISTRICT JUDGE